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Attorneys for Plaintiff: DONNA R. NELSON, an individual and on behalf
of all others similarly situated

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DONNA R. NELSON, an individual and on
behalf of the general public,

Plaintiff,

vs.

BIC USA, Inc., a Delaware Corporation, and
DOES 1 through 100, inclusive,

Defendants.

CASE NO: 3:07-cv-02367-LAB-RBB

**DECLARATION OF KEVIN T. LEVINE
IN SUPPORT OF PLAINTIFF'S
MOTION TO REMAND**

ACCOMPANYING DOCUMENTS:

Notice of Motion and Motion; Memorandum
of Points and Authorities

[28 U.S.C. § 1447]

Date: March 3, 2008

Time: 10:30 a.m.

District Judge: Judge Larry Alan Burns

Room/Floor: Room 9 / 2nd Floor

[ORAL ARGUMENT REQUESTED]

I, Kevin T. Levine, declare:

1. I was the named plaintiff and purported class representative in the case captioned
as *Levine v. BIC USA, Inc.*, (Case No. 3:07-CV-01096-LAB-RBB) ("LEVINE CASE"). I have
personal knowledge of all matters set forth in this declaration, and if called as a witness in the
above entitled matter, I could and would competently testify to the following facts.

2. Without waving the attorney client privilege, rather with the full intention of

1 preserving all applicable privileges, I declare that I directed my attorneys (the law firm of Del
2 Mar Law Group, LLP) to dismiss the LEVINE CASE because I became uncomfortable with
3 serving as the class representative.

4 3. As an initial matter, the law firm of Gordon & Rees, LLP (the law firm
5 representing defendant BIC USA, Inc. in the above-captioned action and the LEVINE CASE) is
6 known to me. Gordon & Rees, LLP was my former law firm, which represented me in the
7 arbitration matter captioned as Levine v. All Commercial Insurance Services, Inc.

8 4. As a result of the favorable ruling obtained in the Levine v. All Commercial
9 Insurance Services, Inc. case, I developed a friendship with Gordon & Rees, LLP attorneys that
10 included traveling to Hawaii with a Gordon & Rees, LLP attorney is who currently a partner at
11 the firm to celebrate the favorable arbitration ruling.

12 5. During the course of litigating the LEVINE CASE, I began to understand the
13 zealous nature in which defense law firms attack the credibility of purported class action
14 representatives. Furthermore, I reviewed several motions filed by Gordon & Rees, LLP in the
15 LEVINE CASE which supported this understanding.

16 6. Rather than going through the lengthy process of having my relationship with
17 both Gordon & Rees, LLP and Del Mar Law Group, LLP scrutinized and/or compromised, I
18 concluded that I was no longer comfortable in serving as the class representative in the LEVINE
19 CASE.

20 7. Therefore, on or about November 1, 2007, I directed Del Mar Law Group, LLP to
21 dismiss the LEVINE CASE.

22 8. I understand that it would have been permissible to substitute a class
23 representative for myself in the LEVINE CASE; however, I am uncomfortable with having my
24 name listed on the pleading caption in perpetuity, including potential appeals that could last
25 several years.

26 9. At all relevant times, I was informed and believe and continue to believe that the
27 BIC disposable lighters do not qualify for the "Made in the USA" labeling. My prosecution of
28 the LEVINE CASE was at all times with good faith and with the understanding that I would

1 eventually force BIC to change their unlawful advertising practices. I am still informed that the
2 component parts that constitute the entirety of the Maxi BIC disposable lighter is made from
3 foreign-sourced components. Therefore, the BIC disposable lighter does not qualify for "Made
4 in the USA" labeling pursuant to my understanding of California law.

5 I declare under penalty of perjury pursuant to the laws of California and the United States
6 of America, that the foregoing is true and correct and that this declaration was executed on
7 January 9, 2008, at Del Mar, California.

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Kevin T. Levine